

Special Meeting



**City of Fitchburg
Massachusetts 01420**

CITY COUNCIL

President

Michael P. Kushmerek

Vice President

Amy L. Green

Ward Councillors

Ward 1 – Amy L. Green

Ward 2 – Paul R. Beauchemin

Ward 3 – Joel R. Kaddy

Ward 4 – Michael P. Kushmerek

Ward 5 – Angelo J. Bisol, Jr.

Ward 6 – Jody M. Joseph

Councillors at Large

Jeffrey A. Bean

David Clark

Marcus L. DiNatale

Stephan Hay

Dean A. Tran

Warrant for a
Special Meeting

WARRANT FOR A SPECIAL MEETING OF THE CITY COUNCIL

A Special Meeting of the City Council will be held on

Thursday, August 18, 2016,

7:00PM

Memorial Middle School Library

615 Rollstone St., Fitchburg, MA

The agenda will consist of the following:

COMMUNICATION

From His Honor the Mayor: Appointing and asking for confirmation of the following appointees as Student Police Officers to the City of Fitchburg Police Department:

Mr. Demetrice D. Phillips

Mr. Nathan D. Lamkin

(To be referred to the September 6, 2016 Appointments Committee meeting)

PUBLIC HEARING ON THE FOLLOWING ORDERS

- 201-16. ORDER: Eminent Domain for the Safe Routes to School (South St., Fairbanks St., Old South St., Ellis St. & Electric Ave.) Temporary Easements as outlined in the enclosed Order.
- 202-16. ORDER: Eminent Domain for the Safe Routes to School (South St., Fairbanks St., Old South St., Ellis St. & Electric Ave.) Temporary and Permanent Easements as outlined in the enclosed Order.

PETITION

- 209-16. PETITION: Of City Solicitor Vincent Pusateri to accept as gift, purchase, or take by eminent domain under MGL Ch. 79 et al. both permanent and temporary easement over certain parcels of land required for the Safe Routes to School Project.

AGenda

ORDINANCES

- 204-16. AN ORDINANCE: Establishing the Westminster Hill Road Commercial Recreation Overlay District as outlined in the enclosed Ordinance. (Reference Petitions 106-16 and 107-16) (Final Reading)
- 205-16. AN ORDINANCE: Establishing section 181.89A5 (Use regulations) section 181.89A6 (Special Permit and site plan review requirements); section 181.89A7 (Waivers) and section 181.89A8 (Severability) as outlined in the enclosed Ordinance. (Reference Petitions 106-16 and 107-16) (Final Reading)

Per Order:
Michael Kushmerek
City Council President
By:
Anna M. Farrell
City Clerk

The Special meeting of the City Council was held in the Memorial Middle School Library, 615 Rollstone St., Fitchburg MA and called to order by President Michael Kushmerek at 7:06 PM. The salute to the Flag was led by Councillor Tran. The Clerk called the Roll and nine (9) members were present. Councillor Joseph was absent. President Kushmerek read the Warrant for the Special Meeting.

Roll call

COMMUNICATION

From His Honor the Mayor: Appointing and asking for confirmation of the following appointees as Student Police Officers to the City of Fitchburg Police Department:
Mr. Demetrice D. Phillips
Mr. Nathan D. Lamkin

Communication
His Honor the Mayor
Appointment Letter



STEPHEN L. DINATALE
MAYOR
166 BOULDER DRIVE
FITCHBURG, MA 01420
TEL: (978) 825-1801

The City of Fitchburg
Massachusetts
OFFICE OF THE MAYOR

FITCHBURG CITY CLERK
16 AUG - 5 13 43

AARON TOURIGNY
CHIEF OF STAFF
ATOURIGNY@FITCHBURGMA.GOV
JOAN DAVID
ADMINISTRATIVE AIDE
JDAVID@FITCHBURGMA.GOV

August 5, 2016

The Honorable City Council
Fitchburg Municipal Offices
166 Boulder Drive, Suite 108
Fitchburg, MA 01420

Dear Honorable Councilors,

I hereby appoint and ask for your confirmation of the following appointees as Student Police Officers to the City of Fitchburg Police Department:

Mr. Demetrice D. Phillips

Mr. Nathan D. Lamkin

Please feel free to contact me with any questions.

Sincerely,

Stephen L. DiNatale
Stephen L. DiNatale
Mayor

Cc: Chief Martineau, Richard Sarasin, Bernard Stephens

Appointments read and referred to the Appointments Committee.

Public Hearing
Order #201-16

PUBLIC HEARING ON THE FOLLOWING ORDERS

201-16. ORDER: Eminent Domain for the Safe Routes to School (South St., Fairbanks St., Old South St., Ellis St. & Electric Ave.) Temporary Easements as outlined in the enclosed Order.

8/18/16

COMMONWEALTH OF MASSACHUSETTS

Worcester, S.S.

City of Fitchburg
City Council

In RE: Order of Eminent Domain for the Safe Routes to School
South Street, Fairbanks Street, Old South Street,
Ellis Street and Electric Ave.
Registered Land

Property Address: South St., Ellis St., Fairbanks St., Old South St. and Electric Ave.

WHEREAS The Commissioner of the Department of Public Work has requested that the City exercise its power of eminent domain;

WHEREAS under the provisions of M.G.L. c. 43 § 30 and M.G.L. c. 79 § 1 et. al. the City Council of the City of Fitchburg is authorized to acquire property for the purposes of improving rights of way in the City of Fitchburg; and

WHEREAS the City Council of the City of Fitchburg, duly established under the law has decreed by a vote duly passed and recorded that public necessity and convenience require the taking by the City of Fitchburg by eminent domain for the purposes of improving rights of way in the City of Fitchburg, of an easement and certain interests or parcels of land in Fitchburg, Massachusetts including all trees upon said land, as hereinafter described; and

WHEREAS appraisals of the aforesaid parcels of land to be taken have been heretofore made and filed with the taking Authority; and

WHEREAS an appropriation for such taking by eminent domain was made by the City Council of the City of Fitchburg on June 7, 2016, by a vote in excess of two-thirds thereof as required by M.G.L. c. 40, § 14, and Section 30 of the City Charter, the appropriation having been carried forward in the account and now being available for the purpose of the present taking; and

WHEREAS the City of Fitchburg on August 18, 2016, afforded a hearing in accordance with the provisions of M.G.L. c. 79, § 5B at which hearing those persons, if any, not consenting to the taking hereinafter set forth of their property used for agriculture or farming purposes were

given an opportunity to be heard and allowed to introduce evidence that other land is available for the intended public use of this taking;

NOW THEREFORE:

BE IT ORDERED that the City of Fitchburg by the City Council under the authority vested in said Council by virtue of M.G.L. c. 79 and all and every other power enabling it, does hereby take by eminent domain, easements and certain rights including the right for its agents, servant and employees to enter upon the below described land for the purposes of constructing, installing, adding to and maintaining certain rights of way, utilities and related equipment and structures temporarily in and on land located in Fitchburg, Massachusetts, including the trees upon said land, and bounded and described as follows:

Temporary Easements

The temporary easements are taken for three years with said period beginning on the date of the filing of this Order. They are described as follows:

Certain portions of parcels of lands located on South St., Ellis St., Fairbanks St., Old South St. and Electric Avenue situated in the City of Fitchburg, Worcester County, Commonwealth of Massachusetts. The portions of parcels are shown on a plan entitled "Easement Plan of Land in Fitchburg, MA." Scale: 1"=20', dated June 22, 2016, prepared by Hancock Associates, to be recorded herewith at Plan Book 507 Page 8. The easement numbers are provided below refer to and incorporate the said plan.

NAME	ADDRESS	ASSESSOR'S ID. AND REG LAND I.D.	EASEMENT NO. / SQUARE FOOTAGE	MARGINAL REFERENCE

Public Hearing (cont)
Order #201-16

EVAN D. CROFT & ASHLEY A. DEVENEAU	333 SOUTH ST	Map 107, Lot 19 / PLAN 188E LOT D	TE-19 Appox. 687	Cert. # 1811 Doc. #10,436
TODD M. UPTON & DENNIS C. HENDRICKSON	323-325 SOUTH ST	Map 107, Lot 20 / PLAN 188C LOT D	TE-20 Appox. 1,117	Cert. # 1893 Doc. # 11,093

Together with the right of ingress and egress over the subject lands adjacent to the taken easements to the extent reasonably necessary in order to exercise the rights taken.

The trees upon the land above are included in the taking. No structures are included in this taking.

No betterments are to be assessed for this improvement.

COMMONWEALTH OF MASSACHUSETTS

Worcester, S.S.

City of Fitchburg
City Council

In RE: Order of Eminent Domain for the Safe Routes to School
South Street, Fairbanks Street, Old South Street,
Ellis Street and Electric Ave.
Registered Land

Upon a motion made and duly seconded, it was voted that public necessity and convenience require the taking of easements and certain interests in real property pursuant to M.G.L. c. 79 for legitimate public purpose by the City of Fitchburg by and through its City Council for land located in the City of Fitchburg, Massachusetts for the purposes of improving rights of way in the City of Fitchburg, including the removal of trees upon said land, all of which are fully described in the description of land taken in the order of taking hereto attached and made part of this record as if fully set forth herein.

Award of Damages

And it is further ORDERED that the following persons whose property has been taken or who are otherwise entitled to damages on account of such taking be awarded, and they hereby are awarded, as the damages sustained by them in the following amounts severally set against their names on the attached record of the Vote.

NAME	ADDRESS	ASSESSOR'S ID. REG. LAND I.D.	EASEMENT NO.	AWARD OF DAMAGES

Public Hearing (cont)
Order #201-16

EVAN D. CROFT & ASHLEY A. DEVENEAU	333 SOUTH ST	Map 107, Lot 19 PLAN 188E LOT D	TE-19	\$550.00
TODD M. UPTON & DENNIS C. HENDRICKSON	323-325 SOUTH ST	Map 107, Lot 20 / PLAN 188C LOT D	TE-20	\$410.00

The same to be charged to the DPW - HIGHWAY GENERAL EXPENSES RIGHT OF WAY - ACCOUNT #01410746-545229.

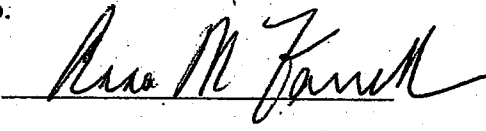
Order adopted by a yea and nay vote of 10 Yeas and 0 Nays.

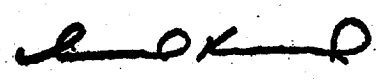
A TRUE COPY

ATTEST


Clerk of the Fitchburg City Council

I hereby certify that the forgoing is a true copy of an order of Taking adopted by the City Council of the City of Fitchburg on August 18, 2016.


Clerk of the Fitchburg City Council



202-16. ORDER: Eminent Domain for the Safe Routes to School (South St., Fairbanks St., Old South St., Ellis St. & Electric Ave.) Temporary and Permanent Easements as outlined in the enclosed Order.

8/18/16

COMMONWEALTH OF MASSACHUSETTS

Worcester, S.S.

City of Fitchburg
City Council

In RE: Order of Eminent Domain for the Safe Routes to School
South Street, Fairbanks Street, Old South Street,
Ellis Street and Electric Ave.

WHEREAS The Commissioner of the Department of Public Work has requested that the City exercise its power of eminent domain;

WHEREAS under the provisions of M.G.L. c. 43 § 30 and M.G.L. c. 79 § 1 et. al. the City Council of the City of Fitchburg is authorized to acquire property for the purposes of improving rights of way in the City of Fitchburg; and

WHEREAS the City Council of the City of Fitchburg, duly established under the law has decreed by a vote duly passed and recorded that public necessity and convenience require the taking by the City of Fitchburg by eminent domain for the purposes of improving rights of way in the City of Fitchburg, of an easement and certain interests or parcels of land in Fitchburg, Massachusetts including all trees upon said land, as hereinafter described; and

WHEREAS appraisals of the aforesaid parcels of land to be taken have been heretofore made and filed with the taking Authority; and

WHEREAS an appropriation for such taking by eminent domain was made by the City Council of the City of Fitchburg on June 7, 2016, by a vote in excess of two-thirds thereof as required by M.G.L. c. 40, § 14, and Section 30 of the City Charter, the appropriation having been carried forward in the account and now being available for the purpose of the present taking; and

WHEREAS the City of Fitchburg on August 18, 2016, afforded a hearing in accordance with the provisions of M.G.L. c. 79, § 5B at which hearing those persons, if any, not consenting to the taking hereinafter set forth of their property used for agriculture or farming purposes were

Public Hearing (cont)
Order #202-16

given an opportunity to be heard and allowed to introduce evidence that other land is available for the intended public use of this taking;

NOW THEREFORE:

BE IT ORDERED that the City of Fitchburg by the City Council under the authority vested in said Council by virtue of M.G.L. c. 79 and all and every other power enabling it, does hereby take by eminent domain, easements and certain rights including the right for its agents, servants and employees to enter upon the below described land for the purposes of constructing, installing, adding to and maintaining certain rights of way, utilities and related equipment and structures both permanently and temporarily and for the public to have a permanent right of way and access to the same permanently as identified in the plan referred to herein, in and on land located in Fitchburg, Massachusetts, including the trees upon said land, and bounded and described as follows:

Permeant easements are described as follows:

Parcel E-1

A certain parcel of land located on Electric Avenue situated in the City of Fitchburg, Worcester County, Commonwealth of Massachusetts. The parcel is shown on a plan entitled "Easement Plan of Land in Fitchburg, MA.," Scale: 1"=20', dated June 22, 2016, prepared by Hancock Associates, recorded herewith at Plan Book 507, Page 8, and more particularly described as follows:

Beginning at a point on the southerly sideline of Electric Avenue at land now or formerly of 459 South Street LLC, said point bearing N 56°16'45" E 129.35 feet from a disk in a concrete bound, said point also being the northwesterly most corner of the following described parcel, thence;

N 56°16'45" E	a distance of two hundred sixty-six and five hundredths (266.05) feet to a point, thence;
Southeasterly	along a curve to the right with a radius of forty and zero hundredths (40.00) feet and a distance of forty and ninety-three hundredths (40.93) feet to a point, thence;
S 24°54'08" W	a distance of five and zero hundredths (5.00) feet to a point, thence;

Northwesterly along a non-tangent curve to the left with a radius of thirty-five and zero hundredths (35.00) feet and a distance of thirty-five and eighty-one hundredths (35.81) feet to a point, thence;

S 56°16'45" W a distance of thirty-eight and five hundredths (38.05) feet to a point, thence;

S 33°43'15" E a distance of five and zero hundredths (5.00) feet to a point, thence;

S 56°16'45" W a distance of one hundred forty and zero hundredths (140.00) feet to a point, thence;

S 33°43'15" E a distance of six and zero hundredths (6.00) feet to a point, thence;

S 56°16'45" E a distance of eight and zero hundredths (8.00) feet to a point, thence;

N 33°43'15" W a distance of ten and zero hundredths (10.00) feet to a point, thence;

S 56°16'45" W a distance of eighty and zero hundredths (80.00) feet to a point, thence;

N 33°43'15" W a distance of six and zero hundredths (6.00) feet to the point of beginning.

Said parcel contains 2,390 square feet of land, more or less, according to the above referenced plan.

Parcel E-2

A certain parcel of land located on Electric Avenue and South Street situated in the City of Fitchburg, Worcester County, Commonwealth of Massachusetts. The parcel is shown on a plan entitled "Easement Plan of Land in Fitchburg, MA.," Scale: 1"=20', dated June 22, 2016, prepared by Hancock Associates, recorded herewith at Plan Book 507, Page 8, and more particularly described as follows:

Beginning at a point on the southerly sideline of Electric Avenue at land now or formerly of Louis P. Joseph, Jr., said point bearing S 56°16'45" W 57.14 feet from a drill hole in a concrete bound, said point also being the northeasterly most corner of the following described parcel, thence;

Southwesterly along a curve to the left with a radius of ten and zero hundredths (10.00) feet and a distance of fifteen and twenty-seven hundredths (15.27) feet to a point, thence;

Southerly along a curve to the left with a radius of one thousand three hundred seventy and twenty-five hundredths (1370.25) feet and a distance of sixteen and fifty-one hundredths (16.51) feet to a point, thence;

Public Hearing (cont)
Order #202-16

- S 58°43'22" W

a distance of five and zero hundredths (5.00) feet to a point on the easterly sideline of South Street, thence;
- N 31°21'35" W

a distance of twenty-five and eighty-seven hundredths (25.87) feet to a point on the southerly sideline of Electric Avenue, thence;
- N 56°16'45" E

a distance of fourteen and fifty-four hundredths (14.54) feet to the point of beginning.

Said parcel contains 148 square feet of land more or less according to the above referenced plan.

Temporary Easements

The temporary easements are taken for three years with said period beginning on the date of filling this order. They are described as follows:

Certain portions of parcels of lands located on South Street, Ellis Street., Fairbanks Street., Old South Street. and Electric Avenue situated in the City of Fitchburg, Worcester County, Commonwealth of Massachusetts. The portions of parcels are shown on a plan entitled "Easement Plan of Land in Fitchburg, MA.," Scale: 1"=20', dated June 22, 2016, prepared by Hancock Associates, and recorded herewith at Plan Book 507, Page 8. The easement numbers are provided below refer to and incorporate the said plan.

NAME	ADDRESS	ASSESSOR'S ID.	EASEMENT NO. / SQUARE FOOTAGE	MARGINAL REFERENCE
459 SOUTH ST LLC	459 SOUTH ST	Map 119, Lot 4	TE-1 Approx. 2,742	Book 8512-259
THE PROFESSIONAL CONDOMINIUM	33 ELECTRIC AVENUE	Map 119, Block 43, 14	TE-2 Approx. 479	Book 8358- 93

		Condominium units		
LOUIS P. JOSEPH JR	465 OLD SOUTH ST	Map 119, Lot 42	TE-3 Approx. 921	Book 5150-79 Book 5458-95
GABRIELLE PALMER, INC.	11 ELECTRIC AVENUE	Map 119, Lot 3	TE-4 Approx. 3725	Book 2822-186
BRUCE J. & SANDRA FORTUNATO	410 SOUTH ST	Map 119, Lot 7	TE-5 Approx. 2,754	Book 4599-368
BERNARD J. LAROCHÉ JR	419 SOUTH ST	Map 119, Lot 5	TE-6 Approx. 825	Book 3222-73
ELAINE M. BERUBE	411 SOUTH ST	Map 119, Lot 6	TE-7 Approx. 1,419	Book 1517-161
ROBERT B. LAFLEUR JR	395 SOUTH ST	Map 107, Lot 1	TE-8 Approx. 1,072	Book 8104-154
MARK J. & MARTHA A. LALANCETTE	389 SOUTH ST	Map 107, Lot 2	TE-10 Approx. 332	Book 3004-30
PAUL R. & LYNN D. ST GERMAIN	379 SOUTH ST	Map 107, Lot 4	TE-11 Approx. 73	Book 3117-328
CARL F. & DIANNE M. GODDARD	367 SOUTH ST	Map 107, Lot 5	TE-12 Approx. 660	Book 2606-126

Public Hearing (cont)
Order #202-16

JENNIFER M. MILANO	363 SOUTH ST	Map 107, Lot 6	TE-13 Approx. 605	Book 6883-120
MICHAEL & JILL G. MAHONEY	357 SOUTH ST	Map 107, Lot 7	TE-14 Approx. 360	Book 1403-304
ELIZABETH A DUNNING	353 SOUTH ST	Map 107, Lot 8	TE-15 Approx. 385	Book 8465-237
GERALD M. & DONNA M. DURKEE	344 SOUTH ST	Map 107, Lot 32	TE-16 Approx. 1,019	Book 3876-85
SEBASTIAN CAZARD	343 SOUTH ST	Map 107, Lot 18	TE-17 Approx. 448	Book 5019-216
SOUTH STREET REALTY TRUST- WILLIAM F. CHOATE TRUSTEE N/K/A JORDAN AND CHOATE, LLC	332 SOUTH ST	Map 107, Lot 31	TE-18 Approx. 970	Book 8350-285
LIVINGSTONE NGANGA & LUCY W. MWAURA	3 FAIRBANKS ST	Map 107, Lot 30	TE-21 Approx. 556	Book 6888-274

NICOLE MOORSHEAD, TRUSTEE- 301 SOUTH ST NOMINEE REALTY TRUST	301-319 SOUTH ST	Map 94, Block 61	TE-22 Approx. 505	Book 6646-260
ROBERT G. & MICHELLE F. BLAISDELL	4 FAIRBANKS ST	Map 107, Lot 21	TE-23 Approx. 450	Book 2893-219
PHILLIP J. & SHEILA B. RENDA	450 OLD SOUTH ST	Map 119, Lot 8	TE-24 Approx. 60	Book 8342-235

Together with the right of ingress and egress over the subject lands adjacent to the taken easements to the extent reasonably necessary in order to exercise the rights taken.

The trees upon the land above are included in the taking. No structures are included in this taking.

No betterments are to be assessed for this improvement.

Public Hearing (cont)
Order #202-16

COMMONWEALTH OF MASSACHUSETTS

Worcester, S.S.

City of Fitchburg
City Council

In RE: Order of Eminent Domain for the Safe Routes to School
South Street, Fairbanks Street, Old South Street,
Ellis Street and Electric Ave.

Upon a motion made and duly seconded, it was voted that public necessity and convenience require the taking of easements and certain interests in real property pursuant to M.G.L. c. 79 for legitimate public purpose by the City of Fitchburg by and through its City Council for land located in the City of Fitchburg, Massachusetts for the purposes of improving rights of way in the City of Fitchburg, including the removal of trees upon said land, all of which are fully described in the description of land taken in the order of taking hereto attached and made part of this record as if fully set forth herein.

Award of Damages

And it is further ORDERED that the following persons whose property has been taken or who are otherwise entitled to damages on account of such taking be awarded, and they hereby are awarded, as the damages sustained by them in the following amounts severally set against their names on the attached record of the Vote.

NAME	ADDRESS	ASSESSOR'S ID.	EASEMENT NO.	AWARD OF DAMAGES
459 SOUTH ST LLC	459 SOUTH ST	Map 119, Lot 4	TE-1 E-1	\$6,740.00

City of Fitchburg,

August 18, 2016

THE PROFESSIONAL CONDOMINIUM	33 ELECTRIC AVENUE	Map 119, Block 43, 14 Condominium units	TE-2 Approx. 479	\$0.00
LOUIS P. JOSEPH JR	465 OLD SOUTH ST	Map 119, Lot 42	TE-3 E-2	\$780.00
GABRIELLE PALMER, INC.	11 ELECTRIC AVENUE	Map 119, Lot 3	TE-4 Approx. 3725	\$0.00
BRUCE J. & SANDRA FORTUNATO	410 SOUTH ST	Map 119, Lot 7	TE-5	\$630.00
BERNARD J. LAROCHÉ JR	419 SOUTH ST	Map 119, Lot 5	TE-6	\$460.00
ELAINE M. BERUBE	411 SOUTH ST	Map 119, Lot 6	TE-7	\$480.00
ROBERT B. LAFLEUR JR	395 SOUTH ST	Map 107, Lot 1	TE-8	\$360.00
MARK J. & MARTHA A. LALANCETTE	389 SOUTH ST	Map 107, Lot 2	TE-10	\$390.00
PAUL R. & LYNN D. ST GERMAIN	379 SOUTH ST	Map 107, Lot 4	TE-11	\$60.00

Public Hearing (cont)
Order #202-16

Public Hearing (cont)
Order #202-16

CARL F. & DIANNE M. GODDARD	367 SOUTH ST	Map 107, Lot 5	TE-12	\$280.00
JENNIFER M. MILANO	363 SOUTH ST	Map 107, Lot 6	TE-13 Approx. 605	\$0.00
MICHAEL & JILL G. MAHONEY	357 SOUTH ST	Map 107, Lot 7	TE-14	\$280.00
ELIZABETH A DUNNING	353 SOUTH ST	Map 107, Lot 8	TE-15	\$500.00
GERALD M. & DONNA M. DURKEE	344 SOUTH ST	Map 107, Lot 32	TE-16	\$960.00
SEBASTIAN CAZARD	343 SOUTH ST	Map 107, Lot 18	TE-17	\$420.00
SOUTH STREET REALTY TRUST- WILLIAM F. CHOATE TRUSTEE N/K/A JORDAN AND CHOATE, LLC	332 SOUTH ST	Map 107, Lot 31	TE-18	\$700.00
LIVINGSTONE NGANGA &	3 FAIRBANKS ST	Map 107, Lot 30	TE-21	\$1,020.00

City of Fitchburg,

August 18, 2016

Public Hearing (cont)
Order #202-16

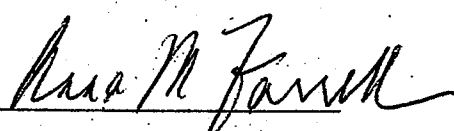
LUCY W. MWAURA				
NICOLE MOORSHEAD, TRUSTEE- 301 SOUTH ST NOMINEE REALTY TRUST	301-319 SOUTH ST	Map 94, Block 61	TE-22	\$120.00
ROBERT G. & MICHELLE F. BLAISDELL	4 FAIRBANKS ST	Map 107, Lot 21	TE-23	\$420.00
PHILLIP J. & SHEILA B. RENDA	450 OLD SOUTH ST	Map 119, Lot 8	TE-24	\$40.00

The same to be charged to the DPW – HIGHWAY GENERAL EXPENSES RIGHT OF WAY – ACCOUNT #01410746-545229.

Order adopted by a yeas and nays vote of 10 Yeas and 0 Nays.

A TRUE COPY

ATTEST


Clerk of the Fitchburg City Council

I hereby certify that the forgoing is a true copy of an Order of Taking adopted by the City Council of the City of Fitchburg on August 18, 2016.


Clerk of the Fitchburg City Council

Hearing held. Assistant City Solicitor Mark Goldstein explained that all abutters to this project have been notified, the values of the land were appraised and appraisals were sent to all land-owners and that, if they feel their compensation is unfair, they have three years to appeal in Superior Court. He noted that, despite any appeal, the City may proceed with the project. No one spoke in favor of the project.

Speaking in opposition to the project were:

1. Mr. Carl Goddard-367 South Street. He stated that the City is taking three times the amount of land as they are taking from his neighbor but they are being compensated the same amount. Attorney Goldstein explained that the easement to his property is temporary – the City will use the property during construction and then full use to the owner will resume.
2. Mr. Louis Joseph-465 Old South St. He stated that the value of his land in the appraisal is far less than today's fair market value.

Attorney Goldstein and Attorney Christine Tree explained that notices were sent to land owners on May 18, July 13 and July 22; an informational meeting was held on June 2 at South Street School and that certified appraisers were used to conduct the property appraisals. They stated that land owners have three years to appeal the appraisal amounts in Superior Court if they so choose.

Hearing closed and Orders adopted by unanimous vote. 10 members present. Board consists of 11 members.

Orders signed by the Mayor August 19, 2016.

Petition #209-16

PETITION

209-16.

PETITION: Of City Solicitor Vincent Pusateri to accept as gift, purchase, or take by eminent domain under MGL Ch. 79 et al. both permanent and temporary easement over certain parcels of land required for the Safe Routes to School Project.

TO THE HONORABLE CITY COUNCIL OF THE CITY OF FITCHBURG

Ladies and Gentlemen:

The undersigned Petition your Honorable Body to

To accept as gift, purchase, or to take by eminent domain under M. G. L. C. 79 et al. both permanent and temporary easement over certain parcels of land required for the Safe Routes to School Project.

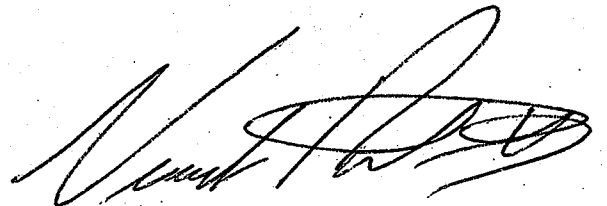
For an accurate description please see the attached map for reference.

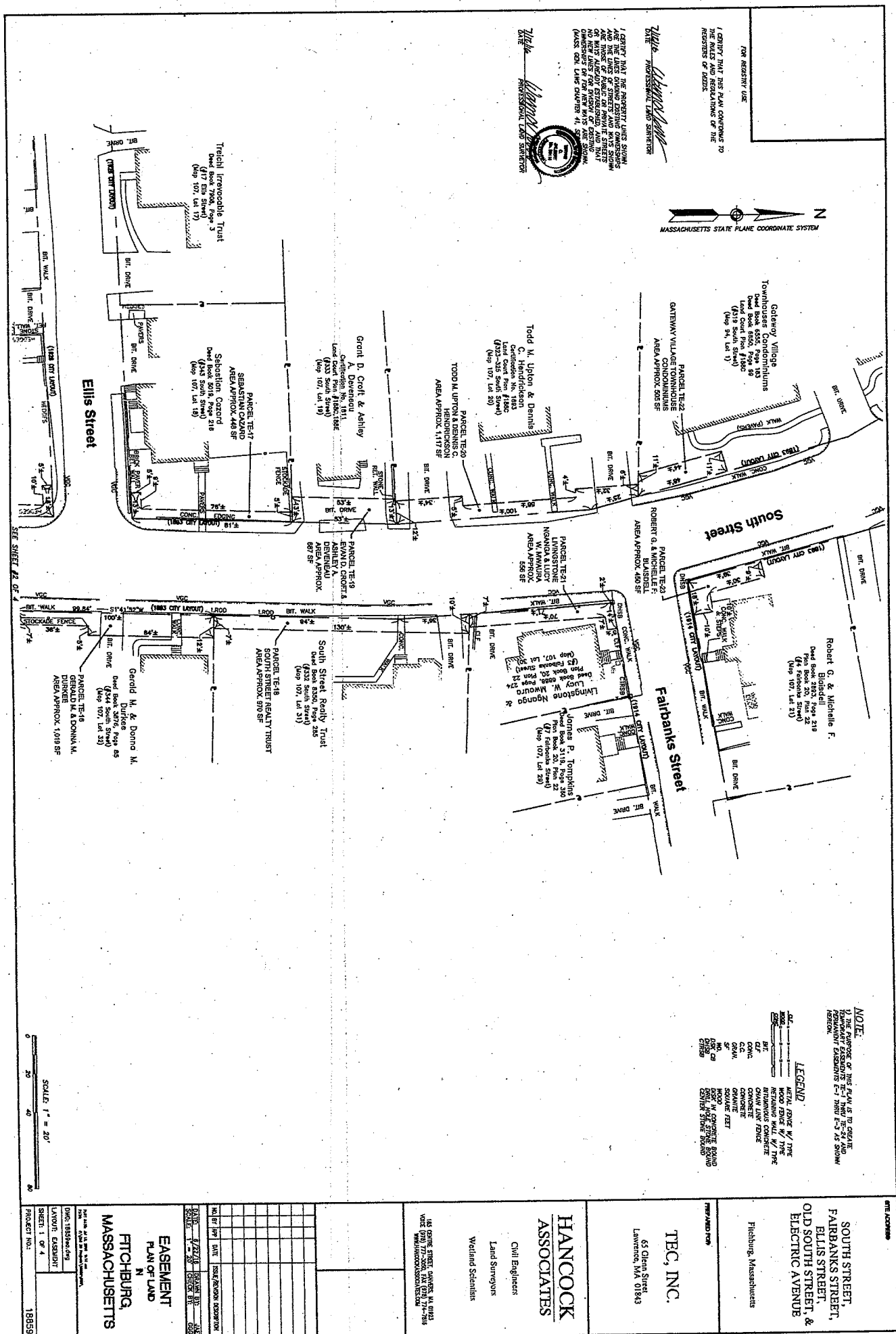
FITCHBURG CITY CLERK

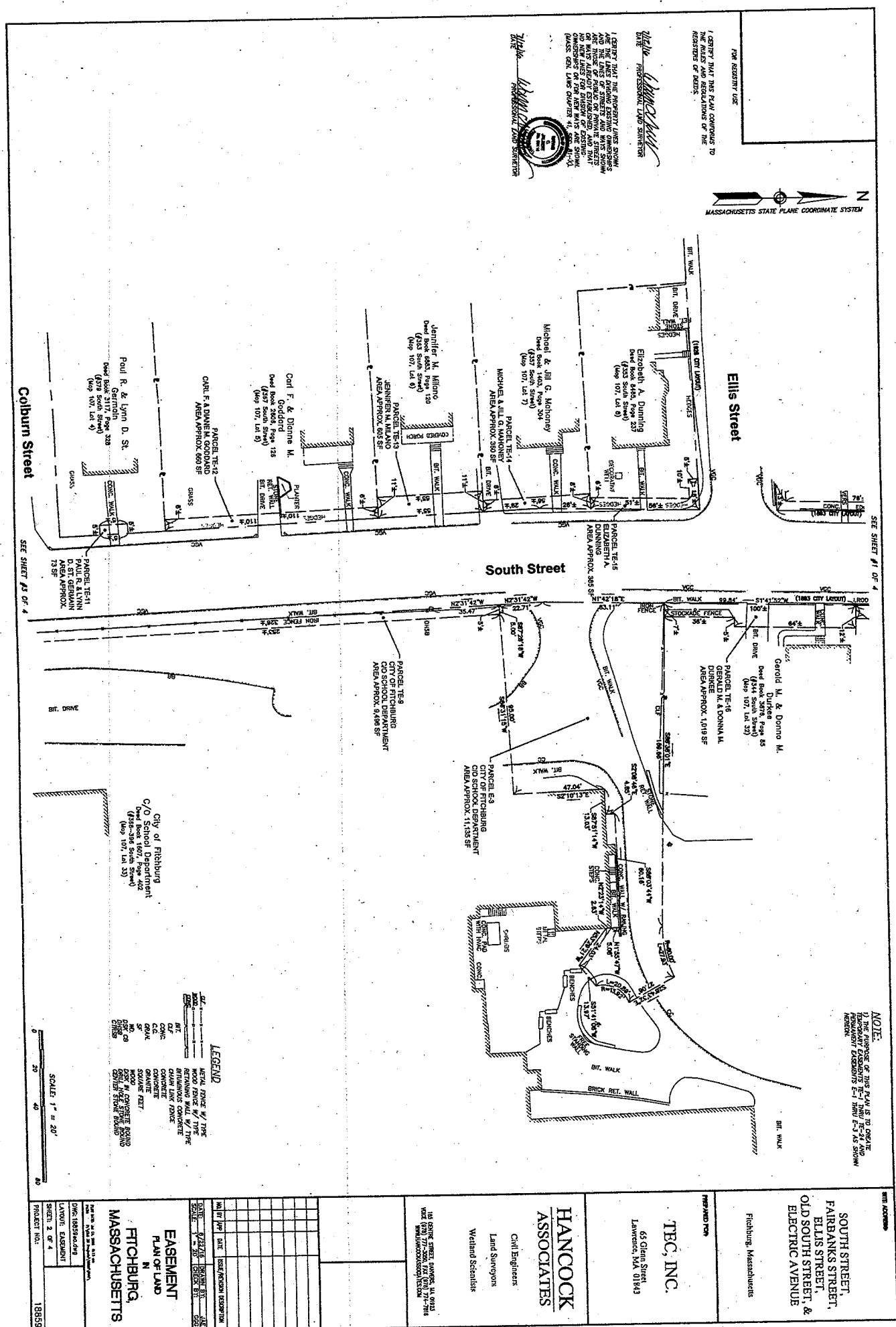
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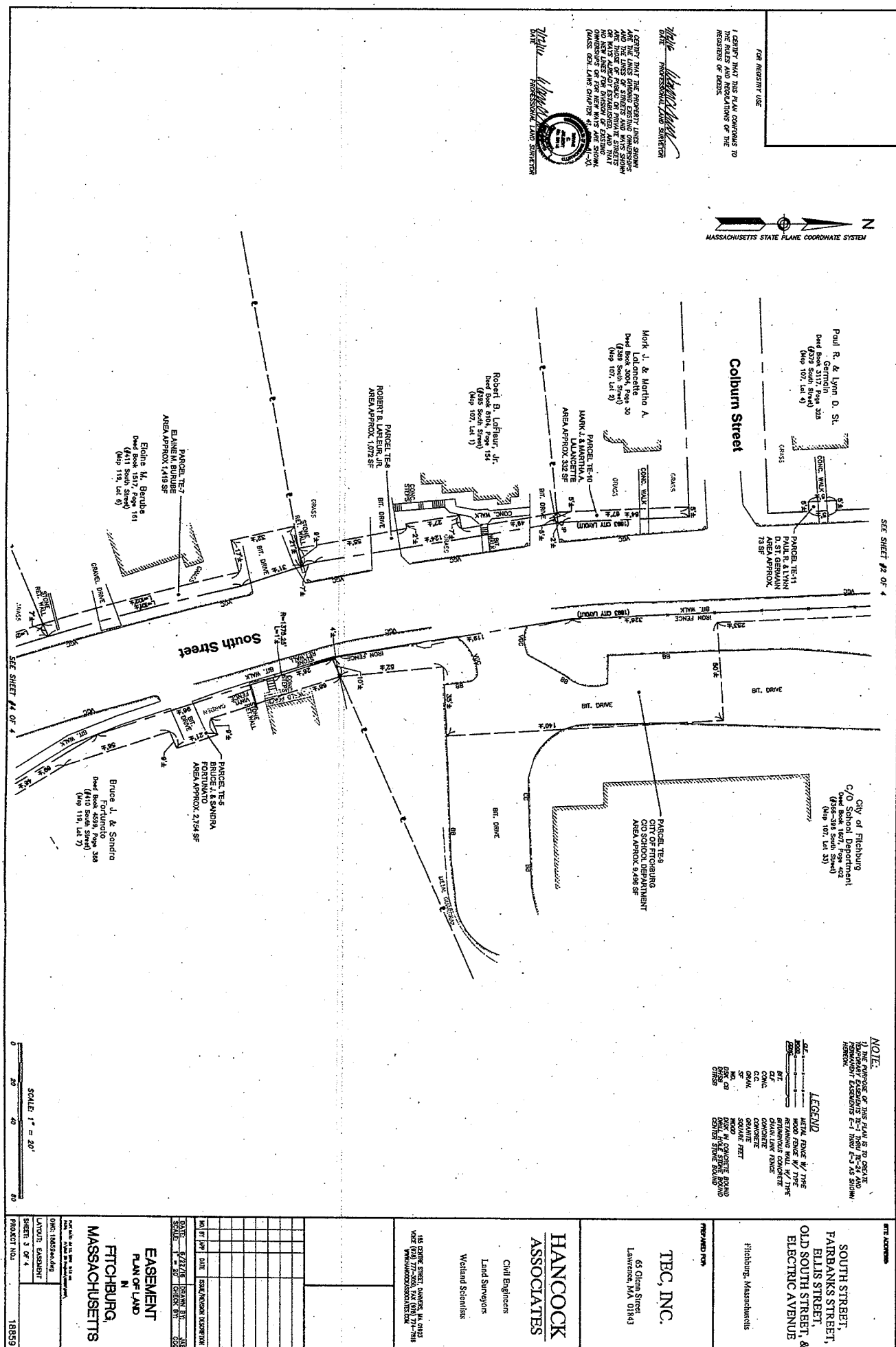
Respectfully Submitted

Attorney Vincent Pusateri
City Solicitor for the City of Fitchburg

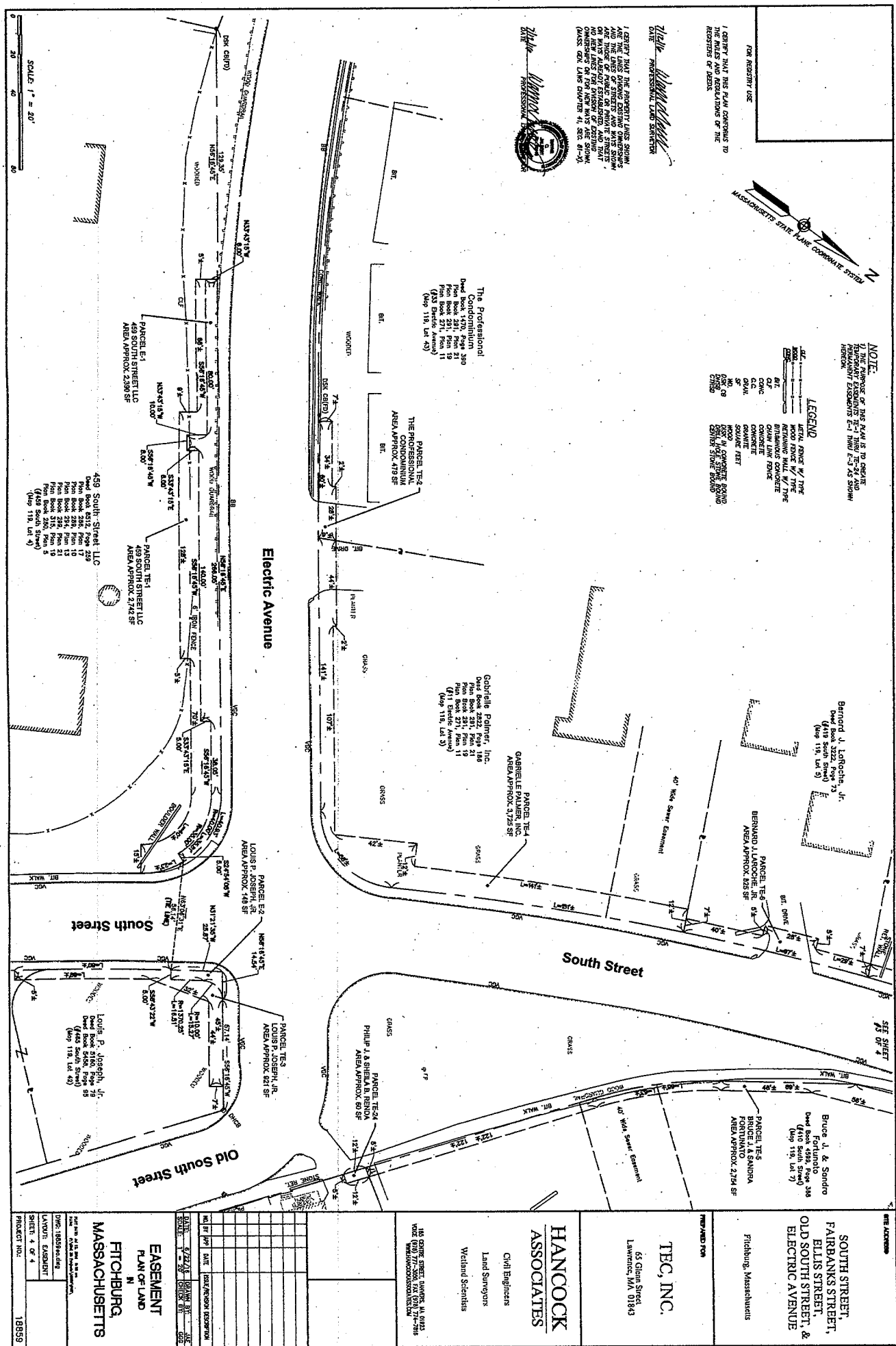








Petition #209-16
(cont)



Petition granted under Suspension of the rules by unanimous vote. 10 members present. Board consists of 11 members.

City of Fitchburg,

August 18, 2016

Ordinance

Protest letter

ORDINANCES

Council President Michael Kushmerek made note of the following protest letter submitted by various residents, which changed the required vote for zoning changes from two-thirds to three-fourths (9 votes in favor).

Keese, Elizabeth

From: Rachael Ouellet Catlow <rouellet@gmail.com>
Sent: Tuesday, July 19, 2016 2:00 PM
To: Keese, Elizabeth; Farrell, Anna
Cc: acouture@difruscialaw.com; Michael Kushmerek; Joel Kaddy; Ian Catlow
Subject: Westminster Hill Overlay Protest
Attachments: WestminsterHillOverlayPetition.pdf

Hi,

I would like to submit the attached written protest as outlined in MGL Chapter 40A, Section 5, for tonight's City Council Meeting (agenda items 204-16 and 205-16). Per MGL, this protest changes the required vote for zoning changes from two-thirds to three-fourths.

This document relates to items that could be reasonably foreseeable to occur within the course of the posted agenda.

Thank You,
Rachael Catlow

FITCHBURG CITY CLERK
16 JUL 19 14 06

Ordinances

Protest Letter
(cont)

We the Owners of land immediately adjacent and extending three hundred feet from the land proposed to be included in such zoning change hereby protest the action of the Fitchburg City Council regarding such zoning change for the following reasons:

1. The change is arbitrary and capricious in that the general welfare would be harmed by increased traffic, noise, light and water pollution;
2. The change amounts to "spot zoning" in that owner of the rezoned parcel has received a benefit not common to the general public. The zoning change is designed solely for the economic benefit of the property receiving special treatment and is not in accordance with a well-considered plan for the public welfare.

Jeff Dawing 138 VICTORIA LN,
Laura Levi 138 Victoria lane.
Cassandra Cushing 150 Victoria Ln
Mary Ellen Cushing 150 Victoria Ln
PAUL T CUSHING 150 VICTORIA LN
Caren Savone 177 Victoria Lane
Jim Caruso 151 Victoria Lane jim@waketel.com
MARITZA KNIGHT mk3428@msn.com
Lynette Becerra 95 Victoria Ln
Marcello Becerra 95 Victoria Ln
Paul Gyne 245 CENTRAL AVE EXT
Abdoul Gagne 245 Central Ave Ext.
Ray Rantatylä 276 Central Ave EXT
Ann Rantatylä 276 Central Ave EXT

FITCHBURG CITY CLERK
16 JUL 19 14

Ordinances

Protest Letter
(cont)

Joseph Fournier Sr 1264 Westminster Hill Rd

Nancy Fournier 1264 Westminster Hill Rd

Jonathan A. Handler 1296 Westminster Hill Rd.

Kim M. Handler 1296 Westminster Hill Rd. @comcast.net

Christine Carney 1297 Westminster Hill Rd. [Christine Marie 4 @ outlook.com]

John Peine 1297 Westminster Hill Rd.

Roger Dieckman 1279 Westminster Hill

Beth A. Korman 161 Victoria Lane

Ordinance #204-16

204-16.

AN ORDINANCE: Establishing the Westminster Hill Road Commercial Recreation Overlay District as outlined in the enclosed Ordinance. (Reference Petitions 106-16 and 107-16)

CITY OF FITCHBURG

IN THE YEAR

FITCHBURG CITY CLERK

16 JUL 14 12 17

AN ORDINANCE

Be it ordained by the City Council of the City of Fitchburg, as follows:

181.89A WESTMINSTER HILL ROAD COMMERCIAL RECREATION OVERLAY DISTRICT (WROD)

181.89A1 Purpose. The intent of the Westminster Hill Road Recreation Overlay District is:

181.89A11. To encourage facilities that are important for the growth and sustainability of team sports.

181.89A12. To permit and promote recreation sports for not only the citizens of Fitchburg, but also for communities throughout our region.

181.89A13. To provide an opportunity for added community and family based tourism in the City of Fitchburg.

181.89A14. To provide an amenity to the City of Fitchburg that is consistent with and promoting other land uses.

181.89A15. Encourage the most appropriate use of land throughout the city.

181.89A16. To generate positive tax revenue, while increasing employment opportunities and strengthen the local businesses/economy.

181.89A17 For the purpose of achieving the public goal of increased commercial development.

181.89A2 Establishment.

The Westminster Hill Road Commercial Recreation Overlay District is hereby established, the district shall include the following parcel identification numbers: S32-10-0, S32-13-0, S32-14-A, S32-17-0, S32-5-0, S32-6-A, and S32-7-0.

181.89A3 Administration.

The approval authority for Site Plan Review and Special Permits in the Westminster Hill Road Commercial Recreation Overlay District shall be the Planning Board.

181.89A4 Definitions.

COMMERCIAL RECREATION – Indoor or outdoor facilities, operated such as a business and open to the public as facilities for ice skating, roller-skating, racquet sports, bowling, horseback riding, swimming, miniature golf and outdoor and open-air live theater.

Ordinance was passed to a third and final reading and adopted to be enrolled and ordained by vote of 9 in favor and 1 opposed (Tran). 10 members present. Board consists of 11 members. Ordinance signed by the Mayor August 19, 2016.

205-16. AN ORDINANCE: Establishing section 181.89A5 (Use regulations) section 181.89A6 (Special Permit and site plan review requirements); section 181.89A7 (Waivers) and section 181.89A8 (Severability) as outlined in the enclosed Ordinance.
(Reference Petitions 106-16 and 107-16)

Ordinance #205-16

CITY OF FITCHBURG

IN THE YEAR

FITCHBURG CITY CLERK

AN ORDINANCE

16 JUL 14 12 18

Be it ordained by the City Council of the City of Fitchburg, as follows:

181.89A5 Use Regulations.

Notwithstanding the definition of "Commercial Recreation" in Section 181.10 of the Zoning Ordinance, which allows a wide variety of Commercial Recreational uses, the allowed uses in the Westminster Hill Road Commercial Recreational Overlay District shall be limited to facilities for soccer, lacrosse, and other team sports.

Accessory uses such as dining for users of the commercial recreation facility, parking, gift shop, pro shop, medical offices, day care, solar or wind power generation for the primary use of the Commercial Recreation facility, and any other use that is compatible with the commercial recreational use permitted in this overlay district.

181.89A6 Special Permit and Site Plan Review Requirement.

All development under the Westminster Hill Road Commercial Recreation Overlay District requires a Special Permit from the Planning Board in accordance with Section 181.93 and Site Plan Review in accordance with 181.94, where applicable.

181.89A7 Waivers.

181.89A71. The Planning Board may waive strict adherence to sections of this ordinance if it finds that the safety and well-being of the public will not be adversely affected by such a waiver. For each waiver granted, the Planning Board will make a written record indicating that the proposed development meets the purpose of this bylaw.

181.89A72. All requests for waivers shall be made in writing on a separate sheet (or sheets) of paper and be attached to the site plan review special permit application and be presented at the time of the initial application.

181.89A73. Requests for waivers shall indicate the section number and the reason the applicant needs the waiver along with any documentation to support the request.

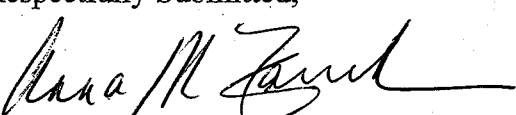
181.89A8 Severability.

If any provision of this Ordinance is found to be invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected but shall remain in full force. The invalidity of any section of this bylaw shall not affect the validity of the remainder of the City of Fitchburg Zoning Ordinance.

Ordinance was passed to a third and final reading and adopted to be enrolled and ordained by vote of 9 in favor and 1 opposed (Tran). 10 members present. Board consists of 11 members. Ordinance signed by the Mayor August 19, 2016.

The meeting adjourned at 7:28 P.M.

Respectfully Submitted,


Anna M. Farrell, City Clerk